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5 IN THE UNITED STATES DISTRICT COURT  
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7 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 JERRIES SOUSOU and VIOLETTE SUSU,

10 Plaintiffs,

No. C 17-05879 WHA

11 v.

12 BAYVIEW LOAN SERVICING, LLC, *et al.*,

**ORDER GRANTING MOTION  
TO VOLUNTARILY DISMISS**

13 Defendants.  
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15 *Pro se* plaintiffs Violette Susu and Jerries Sousou filed this wrongful foreclosure action  
16 on October 13, naming Bayview, MERS, BNY Mellon, CWALT, and A.S.A.P. as defendants.  
17 On November 7 and November 10, defendants moved to dismiss the complaint in its entirety  
18 (Dkt. Nos. 1, 9-11, 14, 17).

19 After plaintiffs failed to meet the November 21 deadline to respond to defendants'  
20 motions to dismiss, plaintiffs were given until December 4 to file a response. On December 1,  
21 plaintiffs requested an additional 30-day extension to respond to the pending motions. They  
22 were instead granted an extension until December 6. No response was filed, but on December  
23 8, plaintiffs moved to voluntarily dismiss their case, stating that due to their full-time  
24 employment they lacked sufficient time to maintain the action.

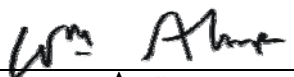
25 Pursuant to FRCP 41(a)(1)(A), a plaintiff may dismiss an action without a court order by  
26 filing "a notice of dismissal before the opposing party serves either an answer or a motion for  
27 summary judgment." Unless the notice states otherwise, the dismissal is without prejudice.  
28 FRCP 41(a)(1)(B). Here, defendants have not filed an answer or a motion for summary

1 judgment. Accordingly, at this juncture plaintiffs are entitled to voluntarily dismiss their action  
2 without prejudice.

3 For the foregoing reasons, plaintiffs' motion to voluntarily dismiss their case is  
4 **GRANTED.** Defendants' motions to strike and to dismiss are **DENIED AS MOOT.**

5 **IT IS SO ORDERED.**

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7 Dated: December 18, 2017.

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10 WILLIAM ALSUP  
11 UNITED STATES DISTRICT JUDGE  
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